IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA NORTHERN DIVISION

No. 2:07-CR-00017-F-1

No. 2:16-CV-00049-F

JAMES EARL WALTON,

Petitioner,

v.

ORDER

UNITED STATES OF AMERICA,

Respondent.

This matter is before the court on James Earl Walton's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-70, -72]. Having examined Walton's motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing Section 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 motion within **forty (40)** days of the filing of this order.

Walton asserts a challenge based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). Walton does not qualify for appointed counsel pursuant to Standing Order No. 15-SO-2 (E.D.N.C. Oct. 16, 2015) because he had retained counsel when he was previously before this court.

SO ORDERED.

This 18 day of July, 2016.

JAMES C. FOX

SENĬOR UNITED STATES DISTRICT JUDGE